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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

OKAL 'SANDY' MEZGER as personal	)	
representative of Clara Belle Spracklen's Estate	)	
	)	
Plaintiff,	)	
v.	)	
	)	
SSC CASPER OPERATING COMPANY, LLC,	)	
d/b/a POPLAR LIVING CENTER	)	Civil Action No.: 11-CV-185-S
	)	
Defendants.	)	

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**SSC CASPER OPERATING COMPANY'S MOTION *IN LIMINE* AS TO  
DELINQUENT YOULES' OPINION**

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Defendant SSC Casper Operating Company, LLC, d/b/a Poplar Living Center ("PLC"),  
by and through its counsel, Gordon & Rees LLP, submits this Motion *in Limine* as to Delinquent  
Youles' Opinion.

**CONFERRAL**

Pursuant to U.S.D.C.L.R. 7.1(b)(1)(A), Defendant's counsel contacted Plaintiff's counsel  
regarding this motion. It is anticipated that Plaintiff's counsel will oppose the relief requested  
herein.

On October 28, 2011 Plaintiff tendered a comprehensive report of specially retained expert Nursing Home Administrator Lance Youles.

On March 7, 2012 Plaintiff submitted an unsigned “supplemental” report prepared by Mr. Youles.

For the most part the supplemental report addresses opinions stated in Mr. Youles initial report.

Mr. Youles did introduce one new opinion in his “supplemental” report and that purportedly dealt with the profits of “SavaSeniorCare”.

Specifically, Mr Youles stated:

**C. New Opinion #1:**

**“SavaSeniorCare possessed the necessary financial resources to address the caregiver staffing problems identified in my 4/16/10 report based of the management fees and net income disclosed in the PLC Medicare Cost Report.”**

**Basis of New Opinion:**

*Medicare Cost Report Filing*  
Poplar Living Center (PLC)

	<u>Home Office Costs:</u>	<u>Net Income:</u>	<u>Combined:</u>
<b><u>Total:</u></b>			
<b>Fiscal Year Ending 9/30/09:</b>	<b>\$415,718</b>	<b>\$306,868</b>	<b>\$722,586</b>

Mr. Youles bases this brand new opinion on documents that were publically available before the report deadline. Specifically, Mr. Youles identified that the basis for the new opinion came from:

**NEW RECORDS RECEIVED AND REVIEWED**

5. I received and reviewed the following records after my report was issued on 4/16/10:

A. PLC: “Medicare Cost Reports” (10/1/07 – 9/30/08), (10/1/08 – 9/30/09), and 10/1/09 – 9/30/10); and,

This new Youles opinion is not admissible because it was five months late, with no reasonable basis for its delinquency. Further, Plaintiff did not seek leave of court to add the new opinion. Finally, the report states that “SavaSeniorCare” possessed the ability to increase staff at Poplar. All SavaSeniorCare entities were dismissed from the case on March 23, 2012. Therefore the opinion is no longer directed to any party to this lawsuit and is not relevant to the claims against Poplar.

Respectfully submitted this 7<sup>th</sup> day of May, 2012.

GORDON & REES LLP

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Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that on this, the 7<sup>th</sup> day of May, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

Thomas Metier, Esq.  
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s/ Thomas B. Quinn  
For Gordon & Rees, LLP